

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOSEPH A. ELLIOTT, SR.,	)
Plaintiff	)
	)
vs.	) Civil Action No. 05-727
	) Judge Joy Flowers Conti/
JEFFERY A. BEARD, PhD., Secretary	) Magistrate Judge Amy Reynolds Hay
of the Department of Corrections; JOHN	)
S. SHAFFER, PhD, Executive Secretary	)
of the Department of Corrections; LANCE	)
COUTERIER, Chief Psychologist of the	)
Department of Corrections; FRED MAUE,	)
Chief Psychiatrist of the Department of	)
Corrections; SHARON M. BURKS, Chief	)
Grievance Coordinator of the Department	)
of Corrections; JOHN DOE, Director of	)
Classification of the Department of	)
Corrections; HARRY S. WILSON,	)
Superintendent of State Correction	)
Institution of Fayette; CAROL A. SCIRE,	)
Grievance Coordinator/Superintendent's	)
Assistant of State Correction Institution of	)
Fayette; LINDA D. HARRIS, Deputy,	)
Superintendent of State Correction	)
Institution of Fayette; MARK KRYSEVIG,	)
Deputy Superintendent of State Correction	)
Institution of Fayette All are sued in	)
official and individual capacities under	)
state color of the law, et al.,	)
Defendants	)

**ORDER**

AND NOW, this 25th day of September, 2006, after the plaintiff, Joseph A. Elliott, Sr., filed an action in the above-captioned case, and after a Report and Recommendation was filed by the United States Magistrate Judge granting the parties ten days after being served with a copy to file written objections thereto, and no objections having been filed, and upon independent review of the motion and the record, and upon consideration of the Magistrate

Judge's Report and Recommendation, which is adopted as the opinion of this Court,

IT IS HEREBY ORDERED that Defendants' Motion to Dismiss is granted in part and denied in part. Specifically, Defendants' Motion is granted with respect to the following claims: First Amendment claim of denial of access to court; Eighth Amendment claim concerning the conditions of confinement in LTSU; Due Process claims against Defendants Scire and Burks; and Plaintiff's State Law claims. The Motion to Dismiss is denied as to Plaintiff's Due Process claims regarding his allegations of illegal medical experimentation and treatment. Further, Defendants did not move for dismissal of Plaintiff's retaliation claim and equal protection claim. Thus, these claims remain pending in this action.

IT IS FURTHER ORDERED that, pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, if the parties desire to appeal from this Order they must do so within thirty (30) days by filing a notice of appeal as provided in Rule 3, Fed.R.App.P.

/s/ Joy Flowers Conti  
JOY FLOWERS CONTI  
United States District Judge

cc: Honorable Amy Reynolds Hay  
United States Magistrate Judge

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